

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

STEPHEN ELLICOTT,

Plaintiff,

v.

AMERICAN CAPITAL ENERGY, INC.,
THOMAS HUNTON, and
ARTHUR HENNESSEY,

Defendants.

Civil Action No. 14-12152

MOTION TO EXTEND EXPERT DISCOVERY DEADLINES

Defendant, American Capital Energy Inc. (“ACE”) herein moves to extend the expert discovery deadlines by 28 days. In support of this Motion, ACE states as follows:

1. On April 22, 2015, Plaintiff provided notice of an intent to utilize expert testimony to support his claims in this action.
2. On April 24, 2015, Plaintiff moved to amend the Scheduling Order to extend the final fact discovery deadline by 60 days, which motion was allowed.
3. In addition to an extension of the final fact discovery deadline, on April 29, 2015, the Court amended the Scheduling Order, requiring Plaintiff’s expert designation on or before July 31, 2015, Defendants’ expert designation on or before September 11, 2015, and the conclusion of expert discovery on October 30, 2015.
4. In May and June, 2015, the parties engaged in extensive fact discovery, including 7 days of depositions, which depositions included a June 22, 2015 Rule 30(b)(6) deposition of ACE’s accountants, Mayer Hoffman McCann, PC, by and through its designee, Peter Gold.

5. Fact discovery closed on June 30, 2015.
6. On July 31, 2015, Plaintiff served its expert disclosure.
7. Defendants had intended to rely upon its accountants, Mayer Hoffman McCann, PC, by and through its designee, Peter Gold, as its sole expert, but were recently advised by same that, while Mr. Gold can provide expert opinions as to some relevant areas of inquiry in this matter, he and Mayer Hoffman McCann, PC believe that they are conflicted from providing expert opinions as to other potentially relevant areas of inquiry.
8. Accordingly, Defendants unexpectedly require additional time to retain and confer with an additional expert(s) for their proper defense of the claims asserted and seek an extension of the remaining expert discovery dates by 28 days.
9. Defendants aver that the requested extension will not prejudice any party and that it comports with principles of fairness because this Court previously allowed Plaintiff's requests for extension of fact discovery deadlines. See Docket No. 32.
10. After conferring with Plaintiff's counsel, Defendant was unable to obtain assent to this motion, but has also been advised that Plaintiff does not intend to oppose the relief herein requested by Defendant.

Wherefore, for the reasons set forth above, ACE requests that the current expert discovery deadlines in this case be extended for 28 days, as follows, or as this Court deems just:

	<u>Current Deadline</u>	<u>Extended Deadline</u>
Defendants' Expert Designation	September 11, 2015	October 9, 2015
Expert Discovery	October 30, 2015	November 27, 2015

Respectfully submitted,
American Capital Energy, Inc.,
By its attorneys,

/s/Michael K. Lane
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Agreed:

/s/Robert Dowd
ROBERT K. DOWD (BBO No. 132800)
Attorney for Defendants, Arthur Hennessey and Thomas Hunton

CERTIFICATE OF COMPLIANCE WITH LR 7.1(A)(2) and FRCP 37(a)(1)

In accordance with LR7.1(A)(2) and Fed. R. Civ. P. 37(a)(1), undersigned counsel certifies that counsel conferred with Plaintiff's counsel on September 1, 2015 in an effort to obtain consent to the relief requested herein without court action. Undersigned counsel conferred by telephone and by email, and was advised the Plaintiff would not consent to the relief requested but did not intend to oppose such relief either.

/s/Michael K. Lane
Michael K. Lane (BBO# 673501)

CERTIFICATE OF SERVICE

I hereby certify that true and accurate copies of the above-pleading were served by CM/ECF upon all parties and individuals who filed notices of appearance in the Court's CM/ECF database in the above-captioned proceeding on September 3, 2015.

/s/Michael K. Lane
Michael K. Lane (BBO# 673501)